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ALL-COUNTY LETTER NO.: 09-30

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY CAPI PROGRAM MANAGERS

SUBJECT: **PHASE ONE IN-HOME SUPPORTIVE SERVICES (IHSS) SOCIAL WORKER TRAINING QUESTIONS/COMMENTS AND ANSWERS**

REFERENCE: ALL-COUNTY LETTER (ACL) NO. 08-18, ISSUED APRIL 23, 2008

The purpose of this All County Letter (ACL) is to clarify or correct some of the answers provided in the referenced ACL. Since the release of ACL 08-18 in April of 2008, we have received several questions concerning services, assessments, and the definition of marriage. Some answers previously provided have been reexamined and are presented in the attached pages, either clarified or corrected. For those responses that are corrected, this current ACL is to be considered the current guideline. Please disregard any conflicting answers provided in ACL 08-18.

These responses are an attempt to answer general questions in very broad terms; specific situations will vary from case to case. For specific guidance on cases, or if you have any questions concerning these answers, please contact the Adult Programs Branch, at (916) 229-3494, or via e-mail at [IHSS-QA@dss.ca.gov](mailto:IHSS-QA@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

EVA L. LOPEZ  
Deputy Director  
Adult Programs Division

Attachment

c: CWDA

## **ATTACHMENT**

### **Question 5: Are Common Law Spouses considered spouses for the purposes of IHSS?**

**Clarified:** The IHSS program has two parts to its definition for spouse found in the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Section 30-701(s)(4). The second part of the definition, “legally married under the laws of the state of the couple's permanent home at the time they lived together” (legally married criteria), is intended only to determine whether or not services are provided by a spouse. This determines which program is appropriate, the Personal Care Services Program (PCSP), which prohibits a recipient's spouse from acting as the provider, or the IHSS Plus Waiver (IPW), which does not.

For *all* other purposes, including the assessment of hours for services, especially when assessing hours for Domestic and Related services, all three sub-programs apply the IHSS Residual (IHSS-R) definition. The IHSS-R definition is the first part of MPP Section 30-701(s) (4), and defines a spouse as a “member of a married couple, or considered to be a member of a married couple for SSI/SSP purposes.” The SSI/SSP definition can be found in Title 20 of the Code of Federal Regulations (20 CFR) 416.1806. It includes the holding out criteria, which is created when two unrelated people of the opposite sex are living together in the same household, and present themselves to the community (hold themselves out) as a married couple. When authorizing hours for services, an individual will be considered a spouse for the purposes of MPP Section 30-763.41 (Able and Available Spouse) whether the couple is legally married under the laws of the State, entitled to each other's Social Security insurance benefits as spouses, or a holding-out spousal relationship exists according to SSI/SSP rules.

This is based in part on Welfare and Institutions Code Sections 14132.95(f), (i) and 14132.951(e), which indicate that determination of need and authorization for services for PCSP and IPW cases shall be performed in accordance with IHSS-R rules.

### **Example:**

A social worker is evaluating an IHSS application for an FFP Medi-Cal recipient who will receive services from his “Common Law Spouse” who meets the holding out criteria. The applicant does not meet the legally married definition, and thus is eligible for services under PCSP instead of IPW. The social worker then begins assessing hours for services. The assessment will show that the need for Domestic and Related services is met by an alternative resource because the couple meets the holding out criteria and the Able and Available Spouse exceptions listed in MPP Section 30-763.41 are applicable.

**Question 10: Can Meal Preparation and Meal Clean-up be performed outside of the recipient's home?**

**Corrected:** To the extent feasible, services shall be provided in the recipient's home, per MPP Sections 30-700.1, 30-701 (o) (2), 30-755.11, and 30-780.2 (b). There are unusual circumstances which could occasionally arise, necessitating that Meal Preparation and Meal Clean-Up services temporarily take place outside of the recipient's home. Should such circumstances arise, measures should be adopted as necessary to ensure that authorized services are provided without interruption. It is assumed that Meal Preparation and Meal Clean-Up services provided outside the recipient's home, if required at all, would be a temporary solution to a situation such as a broken stove or clogged sink in the recipient's home, and not the regular means of providing those services. No time can be added for delivering meals prepared elsewhere.

**Question 12: Is there a Rank 6 for Bowel and Bladder?**

**Clarified:** No, rank 6 is not used for Bowel and Bladder. The recipient should be ranked from one to five based on level of function, irrespective of any related Paramedical services.

**Question 20: Can the maintenance exercise of assistive walking (MPP 30-757.14(g) (2) (A)) be performed outside of the recipient's home?**

**Corrected:** Yes, assistive walking as part of a maintenance program can be performed outside the home; however no time can be authorized for travel or assistance into or out of a vehicle for this service.

**Question 24: How do we assess people with seizures who are unable to do anything after they have one?**

**Clarified:** Time assessed in that scenario would be based on the frequency of seizures; severity of seizures, as well as the need for IHSS covered services during the seizures and seizure recovery periods. Thorough and accurate case documentation is crucial. A recipient may experience seizures and have varying degrees of need for IHSS covered services, and it is expected that, though hours are authorized based on a realistic worst case scenario, the provider's timesheet will accurately reflect hours for services actually provided.

**Question 25: How do we assess stand-by time?**

**Clarified:** We do not assess stand-by time. A recipient should be assessed and authorized that amount of time which is needed to provide the level of assistance required for authorized services.

**Question 30: Can the provider provide services to the recipient while the recipient is temporarily absent from the home?**

**Clarified:** Under some circumstances, yes. There are services which are necessarily provided outside the home, such as Accompany to Medical Appointments and Alternative Resources, Laundry when no laundry facilities are available in the home, Food Shopping, and Other Shopping and Errands. If, in the course of accompaniment to a medical appointment, the recipient needs assistance with Dressing, or Bowel and Bladder, it is conceivable that personal care services could be performed outside the home. Common sense and clear case documentation will be important in answering this question on a case by case basis.

**Question 36: Can we accept a mental health diagnoses from other medical professionals or should the diagnoses be provided by mental health professionals only?**

**Corrected:** We can accept a diagnosis from any medical professional who is acting within the scope of his or her license. Service hours are authorized based on assessed need, never solely based on a diagnosis. Mental function shall be assessed in accordance with MPP Section 30-756.37. While any diagnosis may be accepted and considered in the course of the process, the diagnosis would only be considered as a part of the whole, in conjunction with the social worker's observations.